

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

MAURICE LEE MOORE, III,

Petitioner,

v.

**CIVIL ACTION NO. 3:05CV45
CRIMINAL ACTION NO. 3:03CR61
(BROADWATER)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated June 15, 2006. Neither party filed any objections to the Report. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation (**Document 97 in 3:03CR61 and Document 5 in 3:05CV45**) should be and is hereby **ORDERED** adopted.


The Court further **ORDERS**

- 1) the Magistrate Judge's previous Report and Recommendation dated April 25, 2006, (**Document 92 in 3:03CR61 and Document 4 in 3:05CV45**) is now **VACATED**;
- 2) petitioner's oral motion to withdraw his petition filed under 28 U.S.C. § 2255 is now **GRANTED**; and
- 3) that the petition of the petitioner be **DISMISSED WITHOUT PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active

docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 17th day of August 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE